

# Case No. N12C-04-042 JRJ IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

PABLA CHALANUK and ALBERTO CESAR	)	
TERESCHUK, Individually, and as Parents and Natural	)	
Guardians of JONATAN EMANUEL TERESCHUK, a	)	
minor; LUISA REIS, Individually, and as Parent and	)	
Natural Guardian of MÓNICA GABRIELA REIS;	)	
FLORIPA RODRIGUEZ MULLER and JUVENAL	)	
PADILLA, Individually, and as Parents and Natural	)	COMPLAINT
Guardian of GLORIA MABEL PADILLA, a minor;	)	CA No:
ELSA ALVEZ and MANUEL CORREA, Individually,	)	
and as Parents and Natural Guardians of VIVIANA	)	
LORENA CORREA, a minor; MYRIAM GLADYS	)	JURY OF TWELVE DEMANDED
NUÑEZ and VILMAR LEMOS DA SILVA,	)	
Individually, and as Parents and Natural Guardians of	)	
WILLIAM EMANUEL LEMOS DA SILVA, a minor;	)	
ALEJANDRO DOMINGO DOS SANTOS,	)	
Individually, and as Guardian of YISELA SOLEDAD	)	
DOS SANTOS; IRMA ELENA VERGARA and	)	
CARLOS RIVELLI, Individually, and as Parents and	)	•
Natural Guardians of MIRTA MILENA VERGARA, a	)	
minor; ISABEL DA ROSA and JUAN CARLOS DA	)	
SILVA, Individually, and as Parents and Natural	)	
Guardians of MELIZA DANIELA DA SILVA, a minor;	)	
RAMONA ESTER GALLARDO and JUAN CARLOS	)	
DA SILVA, Individually, and as Parents and Natural	)	
Guardians of HORACIO NICOLAS DA SILVA, a	)	
minor; CIRO PRATES, Individually, and as Parent and	)	
Natural Guardian of ANA ANGÉLICA PRATES and	)	
ANA LEONORA PRATES, minors; CLAUDIA	)	
MIRNA LANGE, RAÚL ALEJO GORGENS, and	)	
KARINA YANNET GORGENS; CELIA SOSA,	)	
Individually, and as Parent and Natural Guardian of	)	
MICAELA ANGELES FERREYRA, a minor;	)	
CARMEN BUBANS and ARNALDO ALBERTO	)	
GENSKI, Individually, and as Parents and Natural	)	
Guardians of CAMILA MILAGROS GENSKI, a minor;	)	
MARIA ROSA DOS REIS and ELISEO CORREA,	)	
Individually, and as Parents and Natural Guardians of	)	
ADRIANA ANGÉLICA CORREA; CARMEN	)	
RAMONA COLMER, ONIRIO SILVEIRA MARTINS,	)	
and MATIAS JOAQUIN SILVEIRA; ANITA NAKE	)	
and JUAN CARLOS SOROKA, Individually, and as	)	
Parents and Natural Guardians of TALIA BELEN	)	

SOROKA, a minor; CÁNDIDA AURORA RODRIGUEZ and FABIÁN ROBERTO PIRIS. Individually, and as Parents and Natural Guardians of FABIÁN ALEXANDER PIRIS, a minor; SUSANA KUCZKA and JORGE NACKE, Individually, and as Parents and Natural Guardians of AXEL MAURICIO NACKE, a minor; NÉLIDA BEATRIZ ALBEA and JERRY RUBÉN MEGGI, Individually, and as Parents and Natural Guardians of MAURO SANTIAGO JOAQUIN MEGGI, a minor; EMA BERTA RIOS, Individually, and as Parent and Natural Guardian of ALAN EZEQUIEL RIOS, a minor; MARILINA DEL CARMEN MONTORFANO, Individually, and as Parent and Natural Guardian of CARLOS RAMON SANCHEZ, a minor: SILVIA PATRICIA DEFLO and FERNANDO WASINGER, Individually, and as Parents and Natural Guardians of MAICOL JOEL WASINGER, a minor; GRACIELA MERELES and ELVINO SCHULZ, Individually, and as Parents and Natural Guardians of CARINA FABIANA SCHULZ, a minor; INES NELY CANDIDA and ALFONSO PRESTES, Individually, and as Parent and Natural Guardian of GLADYS BEATRIZ PRESTES, a minor; OLINDA DA ROSA and MARIO LEMES DA SILVA, Individually, and as Parents and Natural Guardians of RAFAEL LEMES DA SILVA; LUCIA CELESTINA FERREIRA and DORCI CAMARGO, Individually, and as Parent and Natural Guardian of YANINA CLARISA CAMARGO; LILIANA NUÑEZ and CLAUDIO MACIEL, Individually, and as Parents and Natural Guardians of NICOLAS RODRIGO MACIEL, a minor; LUIS ADELAG YUNG and LUISA ALVES, Individually, and as Parents and Natural Guardians of GERMAN ENRIQUE YUNG, a minor; NÉLIDA FABIALDA and IGNACIO BORGES DE LIMA Individually, and as Parents and Natural Guardians of MACARENA BELEN BORGES DE LIMA, a minor: MIRTA ELENA VERGARA and ROQUE DA SILVA, Individually, and as Parents and Natural Guardians of BRENDA YAMILA DA SILVA, a minor: MARIA ELENA VARGAS and ROGELIO DANIEL DA SILVA, Individually, and as Parents and Natural Guardians of VERÓNICA ANDREA DA SILVA, a minor; JUAN RAMÓN PIÑEIRO and MIRTA MULIARCH, Individually, and as Parents and Natural Guardians of HÉCTOR FABIÁN PIÑEIRO, a minor;

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TERESA ELENA JANSAT and GREGORIO LUCIUK,
Individually, and as Parents and Natural Guardians of
MARCIA GABRIELA LUCIUK; VIVIANA SOZA and
RAMÓN MARCELO GONZALEZ, Individually, and
as Parents and Natural Guardians of GIANELA
SORAYA GONZALEZ, a minor; LUISA
FERNANDEZ and HUGO ENRIQUE DUBLES,
Individually, and as Parents and Natural Guardians of
SANDRO JOEL DUBLES; CESARINA ANDRADE
and ROQUE MARQUEZ, Individually, and as Parents
and Natural Guardians of CLAUDIO FABIÁN
MARQUEZ, a minor; ANA FRIEDERICH and
ISIDORO PETROSKI, Individually, and as Parents and
Natural Guardians of CRISTIAN FABIAN PETROSKI,
a minor; GLADYS MARIELA GIMENEZ and
SERGIO RUBÉN GARCIA DA ROSA, Individually,
and as Parents and Natural Guardians of RAFAEL
GARCIA DA ROSA, DANIEL GARCIA DA ROSA,
and MATIAS AGUSTIN GARCIA DA ROSA, minors,
                       Plaintiffs,
v.
ALLIANCE ONE INTERNATIONAL, INC.
f/k/a DIMON INCORPORATED sued individually and
as successor-by-merger to CAROLINA LEAF
TOBACCO COMPANY, INC.; ALTRIA GROUP,
INC. f/k/a PHILIP MORRIS COMPANIES, INC. sued
individually and as successor-in-interest to PHILIP
MORRIS GLOBAL BRANDS INC., PHILIP MORRIS
INTERNATIONAL FINANCE CORPORATION, FTR
HOLDINGS S.A., PHILIP MORRIS PRODUCTS S.A.,
ARGENTINA HOLDINGS INC., TABACOS NORTE
S.A., and MASSALIN PARTICULARES S.A.:
CAROLINA LEAF TOBACCO CO., INC. f/k/a
CAROLINA LEAF TOBACCO COMPANY, INC.:
DIBRELL BROTHERS, INCORPORATED sued
individually and as successor-in-interest to DIBRELL
BROTHERS TOBACCO USA, INC. and individually
and as successor-in-interest to CAROLINA LEAF
TOBACCO COMPANY, INC.; DIMON
INTERNATIONAL, INC. sued individually and as
successor-by-merger to CAROLINA LEAF TOBACCO
COMPANY, INC.; MONSANTO ARGENTINA
S.A.I.C; MONSANTO COMPANY, a Delaware
Corporation; PHILIP MORRIS BRANDS SARL a/k/a
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PHILIP MORRIS BRANDS GMBH a/k/a PHILIP	
MORRIS BRANDS LLC, PHILIP MORRIS	)
INTERNATIONAL HOLDINGS GMBH, PHILIP	)
MORRIS INTERNATIONAL HOLDINGS LTD	)
LIAB. CO., sued individually and as successor-by-	)
merger to FTR HOLDING S.A. individually and as	)
successor-in-interest to MASSALIN PARTICULARES	j
S.A., TABACOS NORTE S.A., PHILIP MORRIS	)
GLOBAL BRANDS INC. and PHILIP MORRIS	)
INTERNATIONAL FINANCE CORPORATION;	)
PHILIP MORRIS GLOBAL BRANDS INC., a	)
Delaware Corporation, f/k/a PHILIP MORRIS	j
INTERNATIONAL FINANCE CORPORATION a/k/a	)
PHILIP MORRIS BRANDS SÀRL sued individually	
and as successor-in-interest to FTR HOLDING S.A.	)
individually and as successor-in-interest to MASSALIN	)
PARTICULARES S.A and as successor-in-interest to	j
TABACOS NORTE S.A.; PHILIP MORRIS	)
INTERNATIONAL INC. sued individually and as	)
successor-in-interest to PHILIP MORRIS LATIN	)
AMERICA INC., FTR HOLDINGS S.A., PHILIP	)
MORRIS GLOBAL BRANDS INC., PHILIP MORRIS	)
INTERNATIONAL FINANCE CORPORATION,	)
PHILIP MORRIS PRODUCTS S.A., ARGENTINA	)
HOLDINGS, INC. TABACOS NORTE S.A. and	)
MASSALIN PARTICULARES S.A; PHILIP	)
MORRIS PRODUCTS S.A. sued individually and as	)
successor-in-interest to FABRIQUES DE TABAC	)
successor-in-interest to FABRIQUES DE TABAC REUNIES S.A., FTR HOLDINGS S.A. PHILIP	)
successor-in-interest to FABRIQUES DE TABAC REUNIES S.A., FTR HOLDINGS S.A. PHILIP MORRIS GLOBAL BRANDS INC., PHILIP	) ) )
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NOW come Plaintiffs, PABLA CHALAÑUK and ALBERTO CESAR TERESCHUK, Individually, and as Parents and Natural Guardians of JONATAN EMANUEL TERESCHUK, a minor; LUISA REIS, Individually, and as Parent and Natural Guardian of MÓNICA GABRIELA REIS; FLORIPA RODRIGUEZ MULLER and JUVENAL PADILLA, Individually, and as Parents and Natural Guardians of GLORIA MABEL PADILLA, a minor; ELSA ALVEZ and MANUEL CORREA, Individually, and as Parents and Natural Guardians of VIVIANA LORENA CORREA, a minor; MYRIAM GLADYS NUÑEZ and VILMAR LEMOS DA SILVA, Individually, and as Parents and Natural Guardians of WILLIAM EMANUEL LEMOS DA SILVA, a minor; ALEJANDRO DOMINGO DOS SANTOS, Individually, and as Guardian of YISELA SOLEDAD DOS SANTOS; IRMA ELENA VERGARA and CARLOS RIVELLI, Individually, and as Parents and Natural Guardians of MIRTA MILENA VERGARA, a minor; ISABEL DA ROSA and JUAN CARLOS DA SILVA, Individually, and as Parents and Natural Guardians of MELIZA DANIELA DA SILVA, a minor; RAMONA ESTER GALLARDO and JUAN CARLOS DA SILVA, Individually, and as Parents and Natural Guardians of HORACIO NICOLAS DA SILVA, a minor; CIRO PRATES, Individually, and as Parent and Natural Guardian of ANA ANGÉLICA PRATES and ANA LEONORA PRATES, minors; CLAUDIA MIRNA LANGE, RAÚL ALEJO GORGENS, and KARINA YANNET GORGENS; CELIA SOSA, Individually, and as Parent and Natural Guardian of MICAELA ANGELES FERREYRA, a minor; CARMEN BUBANS and ARNALDO ALBERTO GENSKI, Individually, and as Parents and Natural Guardians of CAMILA MILAGROS GENSKI, a minor; MARIA ROSA DOS REIS and ELISEO CORREA, Individually, and as Parents and Natural Guardians of ADRIANA ANGÉLICA CORREA; CARMEN RAMONA COLMER, ONIRIO

SILVEIRA MARTINS, and MATÍAS JOAQUÍN SILVEIRA; ANITA NAKE and JUAN CARLOS SOROKA, Individually, and as Parents and Natural Guardians of TALIA BELEN SOROKA, a minor; CÁNDIDA AURORA RODRIGUEZ and FABIÁN ROBERTO PIRIS, Individually, and as Parents and Natural Guardians of FABIÁN ALEXANDER PIRIS, a minor; SUSANA KUCZKA and JORGE NACKE, Individually, and as Parents and Natural Guardians of AXEL MAURICIO NACKE, a minor; NÉLIDA BEATRIZ ALBEA and JERRY RUBÉN MEGGI, Individually, and as Parents and Natural Guardians of MAURO SANTIAGO JOAQUIN MEGGI, a minor; EMA BERTA RIOS, Individually, and as Parent and Natural Guardian of ALAN EZEQUIEL RIOS, a minor; MARILINA DEL CARMEN MONTÓRFANO, Individually, and as Parent and Natural Guardian of CARLOS RAMÓN SANCHEZ, a minor; SILVIA PATRICIA DEFLO and FERNANDO WASINGER, Individually, and as Parents and Natural Guardians of MAICOL JOEL WASINGER, a minor; GRACIELA MERELES and ELVINO SCHULZ, Individually, and as Parents and Natural Guardians of CARINA FABIANA SCHULZ, a minor; INES NELY CANDIDA and ALFONSO PRESTES, Individually, and as Parents and Natural Guardians of GLADYS BEATRIZ PRESTES, a minor; OLINDA DA ROSA and MARIO LEMES DA SILVA, Individually, and as Parents and Natural Guardians of RAFAEL LEMES DA SILVA; LUCIA CELESTINA FERREIRA and DORCI CAMARGO, Individually, and as Parents and Natural Guardians of YANINA CLARISA CAMARGO; LILIANA NUÑEZ and CLAUDIO MACIEL, Individually, and as Parents and Natural Guardians of NICOLA RODRIGO MACIEL, a minor; LUIS ADELAG YUNG and LUISA ALVES Individually, and as Parents and Natural Guardians of GERMAN ENRIQUE YUNG, a minor; NÉLIDA FABIALDA and IGNACIO BORGES DE LIMA, Individually, and as Parents and Natural Guardians of MACARENA BELÉN BORGES DE LIMA, a minor; MIRTA ELENA VERGARA and ROQUE DA SILVA, Individually, and as Parents and Natural Guardians of BRENDA YAMILA DA SILVA, a minor; MARÍA ELENA VARGAS and ROGELIO DANIEL DA SILVA, Individually, and as Parents and Natural Guardians of VERÓNICA ANDREA DA SILVA, a minor; JUAN RAMÓN PIÑEIRO and MIRTA MULIARCH, Individually, and as Parents and Natural Guardians of HÉCTOR FABIÁN PIÑEIRO, a minor; TERESA ELENA JANSAT and GREGORIO LUCIUK, Individually, and as Parents and Natural Guardians of MARCIA GABRIELA LUCIUK; VIVIANA SOZA and RAMÓN MARCELO GONZALEZ, Individually, and as Parents and Natural Guardians of GIANELA SORAYA GONZALEZ, a minor; LUISA FERNÁNDEZ and HUGO ENRIQUE DUBLES, Individually, and as Parents and Natural Guardians of SANDRO JOEL DUBLES; CESARINA ANDRADE and ROQUE MARQUEZ, Individually, and as Parents and Natural Guardians of CLAUDIO FABIÁN MARQUEZ, a minor; ANA FRIEDERICH and ISIDORO PETROSKI, Individually, and as Parents and Natural Guardians of CRISTIAN FABIAN PETROSKI, a minor; GLADYS MARIELA GIMENEZ and SERGIO RUBÉN GARCIA DA ROSA, Individually, and as Parents and Natural Guardians of RAFAEL GARCIA DA ROSA, DANIEL GARCIA DA ROSA, and MATÍAS AGUSTÍN GARCIA DA ROSA, minors; by their attorneys BIFFERATO LLC, LEVY PHILLIPS & KONIGSBERG, LLP, WATERS & KRAUS LLP, AND THORNTON & NAUMES, LLP and in support of their claims against the Defendants, respectfully state as follows:

### INTRODUCTION

- 1. This lawsuit concerns children born with severe birth defects.
- 2. These children and their parents all reside in the Republic of Argentina, in the Province of Misiones. Misiones is located in the northeastern corner of Argentina where it

borders both Brazil and Paraguay. This region is largely rural, agricultural and semi-tropical. It is notable as an area devoted to the cultivation of tobacco.

- 3. Annually, roughly 14,000 metric tons of tobacco is imported into the United States from Argentina. Most of the tobacco grown in Argentina is cultivated in Misiones.
- 4. The injured infant Plaintiffs are offspring of agricultural workers who at relevant times were engaged in the cultivation of tobacco as well as other crops.
- 5. Defendants are either corporations who wrongfully participated in the promotion, manufacture, design, sale, distribution and use of certain reproductively toxic herbicides, pesticides, insecticides and other chemical products which were used by the parental Plaintiffs in the cultivation of tobacco and other crops; and/or corporations who wrongfully participated in the promotion, cultivation, purchasing, design, sale and distribution of tobacco using the aforesaid toxins.
- 6. Plaintiffs contend that these Defendants, acting both individually and collectively, in violation of the laws of both Argentina and the United States, wrongfully caused the parental and infant Plaintiffs to be exposed to those chemicals and substances which they both knew, or should have known, would cause the infant offspring of the parental Plaintiffs to be born with devastating birth defects.
- 7. Plaintiffs further contend that this misconduct proximately caused the birth defects suffered by the injured Plaintiffs.
- 8. Moreover, Defendants wrongfully concealed information concerning the nature of their misconduct, and also made false or misleading statements respecting the safety of the exposures they were promoting. These statements were made for the purpose of inducing the parental Plaintiffs to acquiesce in the aforementioned exposures, secure in the "knowledge" that

their potential offspring were being protected. Defendants were successful in achieving their desired result. By this conduct Defendants also both assumed and then breached duties to the infant plaintiffs.

- 9. The physical injuries suffered by the infant Plaintiffs and the damages suffered by all Plaintiffs are compensable under the laws of both Argentina and the United States.
- 10. The misconduct broadly described above was planned, organized and orchestrated by Defendants in the United States for the purpose (that was realized) of earning profits that were received by Defendants in the United States.
- 11. Defendants' misconduct was, at a minimum, executed with a conscious or reckless disregard for the safety and well-being of Plaintiffs and was motivated by simple greed.

### THE PARTIES

#### A. PLAINTIFFS

- 12. The injured Plaintiff Jonatan Emanuel Tereschuk was born on April 3, 1995 with severe birth defects including cerebral palsy.
- 13. Parental Plaintiffs Pabla Chalañuk and Alberto Cesar Tereschuk are the natural parents and guardians of the injured Plaintiff Jonatan Emanuel Tereschuk.
- 14. The injured Plaintiff Mónica Gabriela Reis was born on February 13, 1993 with severe birth defects including cerebral palsy and psychomotor retardation.
- 15. Parental Plaintiff Luisa Reis is the natural mother and guardian of the injured Plaintiff Monica Gabriela Reis.
- 16. The injured Plaintiff Gloria Mabel Padilla was born on May 25, 1996 with severe birth defects including cerebral palsy.

- 17. Parental Plaintiffs Floripa Rodriguez Muller and Juvenal Padilla are the natural parents and guardians of the injured Plaintiff Gloria Mabel Padilla.
- 18. The injured Plaintiff Viviana Lorena Correa was born on December 18, 2004 with severe birth defects including cerebral palsy.
- 19. Parental Plaintiffs Elsa Alvez and Manuel Correa are the natural parents and guardians of the injured Plaintiff Viviana Lorena Correa.
- 20. The injured Plaintiff William Emanuel Lemos da Silva was born on September 15, 1997 with severe birth defects including cerebral palsy and chronic encephalopathy.
- 21. Parental Plaintiffs Myriam Gladys Nuñez and Vilmar Lemos da Silva are the natural parents and guardians of the injured Plaintiff William Emanuel Lemos da Silva.
- 22. The injured Plaintiff Yisela Soledad Dos Santos was born on July 15, 1993 with severe birth defects including cerebral palsy.
- 23. Guardian Plaintiff Alejandro Domingo Dos Santos is the natural grandparent and guardian of injured Plaintiff Yisela Soledad Dos Santos.
- 24. The injured Plaintiff Mirta Milena Vergara was born on May 7, 1999 with severe birth defects including cerebral palsy and epilepsy.
- 25. Parental Plaintiffs Irma Elena Vergara and Carlos Rivelli are the natural parents and guardians of the injured Plaintiff Mirta Milena Vergara.
- 26. The injured Plaintiff Meliza Daniela Da Silva was born on October 8, 2002 with severe birth defects including myelomeningocele (spina bifida).
- 27. Parental Plaintiffs Isabel Da Rosa and Juan Carlos Da Silva are the natural parents and guardians of the injured Plaintiff Meliza Daniela Da Silva.

- 28. The injured Plaintiff Horacio Nicolas Da Silva was born on October 1, 1995 with severe birth defects including cerebral palsy and epilepsy.
- 29. Parental Plaintiffs Ramona Ester Gallardo and Juan Carlos Da Silva are the natural parents and guardians of the injured Plaintiff Horacio Nicolas Da Silva.
- 30. The injured Plaintiff Ana Angélica Prates was born on September 26, 1996 with severe birth defects including cerebral palsy and strabismus.
- 31. The injured Plaintiff Ana Leonora Prates was born on September 26, 1996 with severe birth defects including intellectual disabilities and strabismus.
- 32. Parental Plaintiff Ciro Prates is the natural parent and guardian of the injured Plaintiffs Ana Angélica Prates and Ana Leonora Prates.
- 33. The injured Plaintiff Karina Yannet Gorgens was born on March 26, 1993 with severe birth defects including cerebellar malformation.
- 34. Parental Plaintiffs Claudia Mirna Lange and Raúl Alejo Gorgens are the natural parents of the injured Plaintiff Karina Yannet Gorgens.
- 35. The injured Plaintiff Micaela Angeles Ferreyra was born on July 3, 1997 with severe birth defects including cerebral palsy and severe intellectual disabilities.
- 36. Parental Plaintiff Celia Sosa is the natural parent and guardian of the injured Plaintiff Micaela Angeles Ferreyra.
- 37. The injured Plaintiff Camila Milagros Genski was born on July 16, 1998 with severe birth defects including diaphragmatic hernia and anal atresia.
- 38. Parental Plaintiffs Carmen Bubans and Arnaldo Alberto Genski are the natural parents and guardians of the injured Plaintiff Camila Milagros Genski.

- 39. The injured Plaintiff Adriana Angélica Correa was born on August 25, 1988 with severe birth defects including a metabolic disorder.
- 40. Parental Plaintiffs Maria Rosa Dos Reis and Eliseo Correa are the natural parents and guardians of the injured Plaintiff Adriana Angélica Correa.
- 41. The injured Plaintiff Matias Joaquin Silveira was born on September 1, 1993 with severe birth defects including bladder exstrophy.
- 42. Parental Plaintiffs Carmen Ramona Colmer and Onirio Silveira Martins are the natural parents of the injured Plaintiff Matias Joaquin Silveira.
- 43. The injured Plaintiff Talia Belen Soroka was born on September 25, 2000 with severe birth defects including congenital heart defect and neurological problems.
- 44. Parental Plaintiffs Anita Nake and Juan Carlos Soroka are the natural parents and guardians of the injured Plaintiff Talia Belen Soroka.
- 45. The injured Plaintiff Fabián Alexander Piris was born on October 12, 2006 with severe birth defects including hydrocephalus.
- 46. Parental Plaintiffs Cándida Aurora Rodriguez and Fabián Roberto Piris are the natural parents and guardians of the injured Plaintiff Fabián Alexander Piris.
- 47. The injured Plaintiff Axel Mauricio Nacke was born on March 11, 2009 with severe birth defects including craniosynostosis, hydrocephalus, toe fusion, and an undecended testicle.
- 48. Parental Plaintiffs Susana Kuczka and Jorge Nacke are the natural parents and guardians of the injured Plaintiff Axel Mauricio Nacke.
- 49. The injured Plaintiff Mauro Santiago Joaquin Meggi was born on March 7, 2005 with severe birth defects including myelomeningocele (spina bifida).

- 50. Parental Plaintiffs Nélida Beatriz Albea and Jerry Rubén Meggi are the natural parents and guardians of the injured Plaintiff Mauro Santiago Joaquin Meggi.
- 51. Plaintiffs Mauro Santiago Joaquin Meggi, Nélida Beatriz Albea and Jerry Rubén Meggi limit their allegations to, and only seek recovery from, the Monsanto Defendants, as defined below.
- 52. The injured Plaintiff Alan Ezequiel Rios was born on July 4, 1999 with severe birth defects including myelomeningocele (spina bifida).
- 53. Parental Plaintiff Ema Berta Rios is the natural parent and guardian of the injured Plaintiff Alan Ezequiel Rios.
- 54. The injured Plaintiff Carlos Ramón Sanchez was born on November 23,2006 with severe birth defects including myelomeningocele (spina bifida).
- 55. Parental Plaintiff Marilina del Carmen Montórfano is the natural parent and guardian of the injured Plaintiff Carlos Ramón Sanchez.
- 56. Plaintiffs Carlos Ramón Sanchez and Marilina del Carmen Montórfano limit their allegations to, and only seek recovery from, the Monsanto Defendants, as defined below.
- 57. The injured Plaintiff Maicol Joel Wasinger was born on January 27, 2003 with severe birth defects including bilateral leukocoria, retina malformation, and legal blindness.
- 58. Parental Plaintiffs Silvia Patricia Deflo and Fernando Wasinger are the natural parents and guardians of the injured Plaintiff Maicol Joel Wasinger.
- 59. The injured Plaintiff Carina Fabiana Schulz was born on September 1,2000 with severe birth defects including cerebral palsy.

- 60. Parental Plaintiffs Graciela Mereles and Elvino Schulz are the natural parents and guardians of the injured Plaintiff Carina Fabiana Schulz.
- 61. The injured Plaintiff Gladys Beatriz Prestes was born on April 14, 1997 with severe birth defects including congenital hydrocephalus.
- 62. Parental Plaintiffs Inés Nely Candida and Alfonso Prestes are the natural parents and guardians of the injured Plaintiff Gladys Beatriz Prestes.
- 63. The injured Plaintiff Rafael Lemes da Silva was born on November 13, 1988 with severe birth defects including cerebral palsy.
- 64. Parental Plaintiffs Olinda da Rosa and Mario Lemes da Silva are the natural parents and guardians of the injured Plaintiff Rafael Lemes da Silva.
- 65. The injured Plaintiff Yanina Clarisa Camargo was born on April 26, 1988 with severe birth defects including cerebral palsy.
- 66. Parental Plaintiffs Lucia Celestina Ferreira and Dorci Camargo are the natural parents and guardians of the injured Plaintiff Yanina Clarisa Camargo.
- 67. The injured Plaintiff Nicolas Rodrigo Maciel was born on December 14, 2000 with severe birth defects including hydrocephalus and myelomeningocele (spina bifida).
- 68. Parental Plaintiffs Liliana Nuñez and Claudio Maciel are the natural parents and guardians of the injured Plaintiff Nicolas Rodrigo Maciel.
- 69. The injured Plaintiff German Enrique Yung was born on February 27, 2001 with severe birth defects including Moebius syndrome with associated Poland anomaly.
- 70. Parental Plaintiffs Luis Adelag Yung and Luisa Alves are the natural parents and guardians of the injured Plaintiff German Enrique Yung.

- 71. The injured Plaintiff Macarena Belén Borges de Lima was born on August 9, 1999 with severe birth defects including intellectual disabilities.
- 72. Parental Plaintiffs Nélida Fabialda and Ignacio Borges de Lima are the natural parents and guardians of the injured Plaintiff Macarena Belén Borges de Lima.
- 73. The injured Plaintiff Brenda Yamila da Silva was born on April 22, 1997 with severe birth defects including Down's syndrome.
- 74. Parental Plaintiffs Mirta Elena Vergara and Roque da Silva are the natural parents and guardians of the injured Plaintiff Brenda Yamila da Silva.
- 75. The injured Plaintiff Verónica Andrea da Silva was born on October 2, 1999 with severe birth defects including missing fingers.
- 76. Parental Plaintiffs María Elena Vargas and Rogelio Daniel da Silva are the natural parents and guardians of the injured Plaintiff Verónica Andrea da Silva.
- 77. The injured Plaintiff Héctor Fabián Piñeiro was born on April 6, 2000 with severe birth defects including intellectual disabilities.
- 78. Parental Plaintiffs Juan Ramón Piñeiro and Mirta Muliarch are the natural parents and guardians of the injured Plaintiff Héctor Fabián Piñeiro.
- 79. The injured Plaintiff Marcia Gabriela Luciuk was born on November 18, 1986 with severe birth defects including Weiss syndrome.
- 80. Parental Plaintiffs Teresa Elena Jansat and Gregorio Luciuk are the natural parents and guardians of the injured Plaintiff Marcia Gabriela Luciuk.
- 81. The injured Plaintiff Gianela Soraya Gonzalez was born on June 16, 2005 with severe birth defects including cerebral palsy.

- 82. Parental Plaintiffs Viviana Soza and Ramón Marcelo Gonzalez are the natural parents and guardians of the injured Plaintiff Gianela Soraya Gonzalez.
- 83. The injured Plaintiff Sandro Joel Dubles was born on November 11, 1987 with severe birth defects including neurological injuries.
- 84. Parental Plaintiffs Luisa Fernández and Hugo Enrique Dubles are the natural parents and guardians of the injured Plaintiff Sandro Joel Dubles.
- 85. The injured Plaintiff Claudio Fabián Marquez was born on July 24, 1995 with severe birth defects including intellectual disabilities.
- 86. Parental Plaintiffs Cesarina Andrade and Roque Marquez are the natural parents and guardians of the injured Plaintiff Claudio Fabián Marquez.
- 87. The injured Plaintiff Cristian Fabián Petroski was born on June 30, 1995 with severe birth defects including intellectual disabilities.
- 88. Parental Plaintiffs Ana Friederich and Isidoro Petroski are the natural parents and guardians of the injured Plaintiff Cristian Fabián Petroski.
- 89. The injured Plaintiff Rafael Garcia Da Rosa was born on June 28, 2001 with severe birth defects including intellectual disabilities.
- 90. The injured Plaintiff Daniel Garcia Da Rosa was born on January 22, 2004 with severe birth defects including intellectual disabilities.
- 91. The injured Plaintiff Matías Agustín Garcia Da Rosa was born on June 12, 2000 with severe birth defects including intellectual disabilities.
- 92. Parental Plaintiffs Sergio Rubén Garcia Da Rosa and Gladys Mariela Gimenez are the natural parents and guardians of the injured Plaintiffs Rafael Garcia Da Rosa, Daniel Garcia Da Rosa, and Matías Agustín Garcia Da Rosa.

### B. DEFENDANTS

### **The Philip Morris Defendants**

- 93. Defendant **ALTRIA GROUP, INC.** f/k/a PHILIP MORRIS COMPANIES, INC. sued individually and as successor-in-interest to PHILIP MORRIS GLOBAL BRANDS INC., PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION, FTR HOLDINGS S.A., PHILIP MORRIS PRODUCTS S.A., ARGENTINA HOLDINGS INC., TABACOS NORTE S.A., and MASSALIN PARTICULARES S.A. (hereinafter, "ALTRIA GROUP, INC.") is a Virginia corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. ALTRIA GROUP, INC.'s address for receipt of process is 6601 West Broad Street, Richmond, Virginia, 23230.
- 94. Defendant **PHILIP MORRIS USA, INC.**, *a/k/a* PHILIP MORRIS INCORPORATED *sued individually and as successor-in-interest to* PHILIP MORRIS LATIN AMERICA INC., PHILIP MORRIS GLOBAL BRANDS INC., PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION, FTR HOLDINGS, S.A., PHILIP MORRIS PRODUCTS S.A., ARGENTINA HOLDINGS INC., TABACOS NORTE S.A., *and* MASSALIN PARTICULARES S.A. (hereinafter, "PHILIP MORRIS USA, INC.") is a Virginia corporation registered to do business in the State of Delaware. PHILIP MORRIS USA, INC.'s address for receipt of process is Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.
- 95. Defendant **PHILIP MORRIS INTERNATIONAL, INC.** sued individually and as successor-in-interest to PHILIP MORRIS LATIN AMERICA INC., FTR HOLDINGS S.A., PHILIP MORRIS GLOBAL BRANDS INC., PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION, PHILIP MORRIS PRODUCTS S.A.,

ARGENTINA HOLDINGS, INC., TABACOS NORTE S.A. and MASSALIN PARTICULARES S.A. (hereinafter, "PHILIP MORRIS INTERNATIONAL INC.") is a Virginia corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. PHILIP MORRIS INTERNATIONAL INC.'s address for service of process is at 120 Park Avenue, New York, New York, 10017.

- 96. Defendant PHILIP MORRIS BRANDS SÀRL a/k/a PHILIP MORRIS BRANDS GMBH a/k/a PHILIP MORRIS BRANDS LLC, PHILIP MORRIS INTERNATIONAL HOLDINGS GMBH, PHILIP MORRIS INTERNATIONAL HOLDINGS LTD LIAB. CO., sued individually and as successor-by-merger to FTR HOLDING S.A. individually and as successor-in-interest to MASSALIN PARTICULARES S.A., TABACOS NORTE S.A., PHILIP MORRIS GLOBAL BRANDS INC. and PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION (hereinafter, "PHILIP MORRIS BRANDS SÀRL") is a corporation organized under the laws of Switzerland doing business in the United States, including the state of Delaware, and subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. PHILIP MORRIS BRANDS SÀRL's address for receipt of process is Quai Jeanrenaud 3, Neuchatel, CH-2000, Switzerland.
- 97. Defendant **PHILIP MORRIS GLOBAL BRANDS INC.**, f/k/a PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION a/k/a PHILIP MORRIS BRANDS SÀRL, sued individually and as successor-in-interest to FTR HOLDING S.A., MASSALIN PARTICULARES S.A. and TABACOS NORTE S.A. (hereinafter, "PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION") is a *Delaware* corporation whose registered agent for service of process is at Corporation Trust Center 1209 Orange Street, Wilmington, DE, 19801.

- 98. Defendant PHILIP MORRIS PRODUCTS S.A. sued individually and as successor-in-interest to FABRIQUES DE TABAC REUNIES S.A., FTR HOLDINGS S.A., MASSALIN PARTICULARES S.A., TABACOS NORTE S.A., PHILIP MORRIS GLOBAL BRANDS INC. and PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION (hereinafter, "PHILIP MORRIS PRODUCTS") is a corporation organized under the laws of Switzerland doing business in the United States, including the state of Delaware, and subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. PHILIP MORRIS PRODUCTS's address for receipt of process is Quai Jeanrenaud 3, Neuchatel, CH-2000, Switzerland.
- 99. PHILIP MORRIS PRODUCTS, S.A. PHILIP MORRIS GLOBAL BRANDS INC., PHILIP MORRIS BRANDS SÀRL, PHILIP MORRIS INTERNATIONAL, INC., ALTRIA GROUP, INC., and PHILIP MORRIS USA, INC. are collectively referred to as "the **Philip Morris Defendants**" herein.

### The Carolina Leaf Defendants

- 100. Defendant **CAROLINA LEAF TOBACCO CO., INC.** f/k/a CAROLINA LEAF TOBACCO COMPANY, INC. (hereinafter, "CAROLINA LEAF TOBACCO CO., INC.") is a North Carolina corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. CAROLINA LEAF TOBACCO CO., INC.'s address for receipt of process is 8001 Aerial Center Parkway, Morrisville, North Carolina, 27560.
- 101. Defendant **DIBRELL BROTHERS, INCORPORATED** sued individually and as successor-in- interest to DIBRELL BROTHERS TOBACCO USA, INC. and individually and as successor-in-interest to CAROLINA LEAF TOBACCO COMPANY, INC.

(hereinafter, "DIBRELL BROTHERS, INC.") is a Virginia corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. DIBRELL BROTHERS, INC.'s address for receipt of process is 8001 Aerial Center Pkwy, Morrisville, North Carolina, 27560.

- 102. Defendant **DIMON INTERNATIONAL, INC.** sued individually and as successor-by-merger to CAROLINA LEAF TOBACCO COMPANY, INC. (hereinafter, "DIMON INTERNATIONAL, INC.") is a North Carolina corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. DIMON INTERNATIONAL, INC.'s address for receipt of process is 8001 Aerial Center Parkway, Morrisville, North Carolina, 27560.
- 103. Defendant **ALLIANCE ONE INTERNATIONAL**, *INC.* f/k/a DIMON INCORPORATED sued individually and as successor-by-merger to CAROLINA LEAF TOBACCO COMPANY, INC. (hereinafter, "ALLIANCE ONE INTERNATIONAL, INC.") is a Virginia corporation subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. ALLIANCE ONE INTERNATIONAL, INC.'s address for receipt of process is 8001 Aerial Center Parkway, Morrisville, North Carolina, 27560.
- 104. ALLIANCE ONE INTERNATIONAL, INC.; CAROLINA LEAF TOBACCO CO., INC.; DIBRELL BROTHERS, INCORPORATED; and DIMON INTERNATIONAL, INC. are collectively referred to as "the Carolina Leaf Defendants" herein.
- 105. Defendant **UNIVERSAL CORPORATION** f/k/a UNIVERSAL LEAF TOBACCO COMPANY, INCORPORATED, f/k/a ULT COMPANY (hereinafter, "UNIVERSAL CORPORATION") is a Virginia corporation subject to service of process and the

personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. UNIVERSAL CORPORATION's address for receipt of process is 9201 Forest Hill Avenue, Stony Point II Building, Richmond, Virginia, 23235.

### **The Monsanto Defendants**

- 106. Defendant **MONSANTO COMPANY** (hereinafter, "MONSANTO") is a Delaware corporation whose address for service of process is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.
- 107. Defendant MONSANTO ARGENTINA S.A.I.C (hereinafter, "MONSANTO ARGENTINA") is a corporation organized under the laws of subject to service of process and the personal jurisdiction of Delaware's Courts pursuant to 10 Del. C. §3104. MONSANTO ARGENTINA's address for service of process is Maipú 1210, piso 10, C1006ACT, Buenos Aires, Argentina.
- 108. MONSANTO and MONSANTO ARGENTINA are collectively referred to as "the Monsanto Defendants" herein.

## THE PHILIP MORRIS AND CAROLINA LEAF GROWING SCHEME IN ARGENTINA

109. Tabacos Norte is a tobacco brokerage company in Misiones province, Argentina. Tabacos Norte was created in 1984 as a joint venture between the Carolina Leaf Defendants and Massalin Particulares, an Argentine subsidiary of the Philip Morris Defendants, for the purpose of producing tobacco suitable for use in the North and South American tobacco markets through its contract tobacco farmers in Misiones.<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> Dibrell International, Inc.' 1997 Tobacco Situation report on Argentina; Draft letter Philip Morris Incorporated, Inter-Office Corr bates number 2500007200

- 110. Under the direction and control of its corporate parent, Defendant PHILIP MORRIS INTERNATIONAL INC., Tabacos Norte produced and brokered tobacco for sale to the Carolina Leaf Defendants, Massalin Particulares and Defendant UNIVERSAL CORPORATION for use in Philip Morris tobacco products sold by Defendant PHILIP MORRIS USA, INC. in the United States.
- 111. Massalin Particulares is the current owner of Tabacos Norte and was at all relevant times an owner of Tabacos Norte, as well as a purchaser of tobacco from Tabacos Norte.

  Massalin Particulares authorized and directed the conduct of Tabacos Norte.
- 112. Defendants PHILIP MORRIS PRODUCTS, PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION, and PHILIP MORRIS BRANDS SARL were at all relevant times owners and operators of the **Philip Morris Defendants**' Argentine subsidiary Massalin Particulares and authorized, participated in, controlled and directed the acts and omissions of Massalin Particulares and Tabacos Norte. As such, these defendants are liable to Plaintiffs for the acts and omissions of Massalin Particulares and Tabacos Norte alleged in this complaint.
- 113. Defendant PHILIP MORRIS PRODUCTS filed to do business and thus, came into existence in Switzerland in December 1988, having formerly been known as Fabriques de Tabac Reunies, SA.<sup>3</sup> Fabriques de Tabac Reunies S.A. later changed its name to FTR Holdings, S.A..<sup>4</sup>

<sup>&</sup>lt;sup>2</sup> Philip Morris Corporate Secretary System Company Percentage Listing, Bates number 2083346753; Registre du Commerce, Repubilque et Canton de Neuchatel for Philip Morris SARL

<sup>&</sup>lt;sup>3</sup> Swiss Commerical Gazette, downloaded 11/17/2010

<sup>&</sup>lt;sup>4</sup> Swiss Commerical Gazette, downloaded 11/17/2010

114. PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION previously owned 100% of FTR Holding S.A. and was also an associated entity of FTR Holding S.A., which in turn owned 63.74% of Massalin Particulares. In August 2010, all of FTR Holdings, S.A.'s assets and liabilities were assumed by PHILIP MORRIS BRANDS SÀRL, the successor-in-interest to PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION. <sup>5</sup>

subsidiary of Philip Morris Companies Inc., later known as ALTRIA GROUP, INC.., bought a controlling interest in "Massalin & Celasco" which subsequently merged with two other cigarette companies to form Massalin Particulares. Since then, PHILIP MORRIS INTERNATIONAL, INC. has operated and controlled Massalin Particulares, its two manufacturing plants, and its head offices in Buenos Aires. PHILIP MORRIS INTERNATIONAL, INC. also owns 100% of Defendant PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION. PHILIP MORRIS INTERNATIONAL INC. instructed, controlled and managed the processes utilized in tobacco production by Massalin Particulares. As such, PHILIP MORRIS INTERNATIONAL, INC. is liable to Plaintiffs for the acts and omissions of Massalin Particulares and Tabacos Norte, alleged in this complaint.

<sup>&</sup>lt;sup>5</sup> Registre du Commerce, Repubilque et Canton de Neuchatel For FTR Holding

<sup>&</sup>lt;sup>6</sup> PMI website <a href="http://www.pmi.com/marketpages/pages/market\_en\_ar.aspx">http://www.pmi.com/marketpages/pages/market\_en\_ar.aspx</a>

<sup>&</sup>lt;sup>7</sup> VA SOS filing.

<sup>&</sup>lt;sup>8</sup> VA SOS filing.

<sup>&</sup>lt;sup>9</sup>Philip Morris Corporate Secretary System Company Percentage Listing, Bates number 2083346753

<sup>&</sup>lt;sup>10</sup> 10/11/1982 letter from Philip Morris USA to Massalin Particulares; Supplemental Capital appropriation Request 10/31/1980; Minutes of Meetings of Board of directors, 14 Million from PMI for MP to buy a new building.; PMI website http://www.pmi.com/marketpages/pages/market en ar.aspx.

Virginia on March 1, 1985. 11 On February 27, 2003, PHILIP MORRIS COMPANIES, INC. changed the name of its corporation to ALTRIA GROUP, INC. 12 Defendant ALTRIA GROUP, INC. formerly known as PHILIP MORRIS COMPANIES, INC., through its direct and indirect subsidiaries, including but not limited to PHILIP MORRIS INTERNATIONAL, INC. PHILIP MORRIS INTERNATIONAL FINANCE CORPORATION, PHILIP MORRIS BRANDS SÀRL and Massalin Particulares directed, controlled and managed tobacco production by Massalin Particulares and Tabacos Norte in Argentina. ALTRIA GROUP, INC., by and through the acts and omissions of its employees and the employees of its subsidiaries under its specific direction and control, dictated the manner and means by which tobacco was produced at the Plaintiffs' farms, through its indirect subsidiary Tobacos Norte. As such, ALTRIA GROUP, INC. is liable to Plaintiffs for the acts and omissions of Defendant Massalin Particulares and Tabacos Norte as alleged in this complaint.

117. Defendant PHILIP MORRIS USA, INC. entered into an agreement with FTR Holdings, S.A. to provide research and cover expenses for FTR Holdings, S.A. and to effectively operate the two businesses as a "single entity." PHILIP MORRIS USA, INC., directly through its division called "Tobacco Technology Group," controlled and managed the tobacco production enterprise of Massalin Particulares and Tabacos Norte to ensure that the

<sup>11</sup> VA SOS filing,

<sup>&</sup>lt;sup>12</sup> NY and VA SOS filings.

<sup>&</sup>lt;sup>13</sup> Various TTG Philip Morris USA and Philip Morris Inc documents; Registre du Commerce, Repubilque et Canton de Neuchatel for Philip Morris SARL

<sup>&</sup>lt;sup>14</sup> Letter from FTR to Philip Morris dated 1/18/1994.

tobacco produced in Argentina was sufficient for its American products. As a result, Tabacos Norte produced and brokered the sale of Misiones tobacco to the **Carolina Leaf Defendants**, Massalin Particulares and UNIVERSAL CORPORATION. This tobacco was ultimately used in Philip Morris tobacco products sold by Defendant PHILIP MORRIS USA, INC. in the United States.

operated Tabacos Norte, and also purchased tobacco from Tabacos Norte. Along with the Philip Morris Defendants, the Carolina Leaf Defendants exercised direction and control over the manner and means by which tobacco was grown at farms contracted with Tabacos Norte, including Plaintiffs' farms. As such, the Carolina Leaf Defendants are liable to Plaintiffs for the acts and omissions of Tabacos Norte, as alleged herein.

119. In or about 1992, Carolina Leaf Tobacco, Company, Inc. and DIBRELL BROTHERS, INC. entered into a joint venture to pool their worldwide resources. <sup>16</sup> Under this agreement DIBRELL BROTHERS, INC. and Carolina Leaf Tobacco, Company, Inc.'s managers oversaw tobacco-growing operations in Argentina. <sup>17</sup>

120. On April 15, 1997, Carolina Leaf Tobacco, Company, Inc. merged into DIMON INTERNATIONAL, INC., which was the surviving corporation. <sup>18</sup> A new entity named CAROLINA LEAF TOBACCO, CO., INC. filed to do business under the laws of North Carolina

<sup>&</sup>lt;sup>15</sup> Various TTG Philip Morris USA and Philip Morris Inc documents.

<sup>&</sup>lt;sup>16</sup> 5/29/1992 Board of Directors Dividend, Press Release by Jon Hunnicut, Dibrell Brothers. Lassiter overseeing Argentinian Operations.

<sup>&</sup>lt;sup>17</sup> 5/29/1992 Board of Directors Dividend, Press Release by Jon Hunnicut, Dibrell Brothers. Lassiter overseeing Argentinian Operations.

<sup>&</sup>lt;sup>18</sup> NC SOS articles of Merger of CLT into Dimon International

on May 4, 1998.<sup>19</sup> On May 12, 2005, DIMON INTERNATIONAL, INC. and Standard Commercial Tobacco Co., Inc. merged to form ALLIANCE ONE INTERNATIONAL, INC. <sup>20</sup>

121. All of the Carolina Leaf Defendants participated in the ownership, management and control of the Argentina tobacco-growing operations of Tabacos Norte.

122. Upon information and belief, at all relevant times, UNIVERSAL CORPORATION maintained various alliances, joint ventures and other business dealings with the **Philip Morris Defendants** including the purchase of tobacco by UNIVERSAL CORPORATION from Tabacos Norte for resale to PHILIP MORRIS USA for use in the American tobacco market. UNIVERSAL CORPORATION collaborated and colluded with the **Philip Morris Defendants** regarding the control and management of tobacco production by Tabacos Norte.<sup>21</sup>

### THE CULTIVATION OF TOBACCO IN

### MISIONES, ARGENTINA

123. The cultivation of tobacco in the Province of Misiones occurs on small family-owned farms, which are generally less than 10 acres in size. The injured Plaintiffs and their natural parents lived and worked at all relevant times on such small farms.

124. In addition to growing tobacco as a cash crop, these family farms also grow fruits and vegetables and raise livestock which are consumed by the farmers and their families, including the instant Plaintiffs.

<sup>&</sup>lt;sup>19</sup> NC SOS, 5/4/1998

<sup>&</sup>lt;sup>20</sup> NC SOS article of Merger of Dimon into Alliance One

<sup>&</sup>lt;sup>21</sup> http://www.universalleaf.com/WorldMap/WorldMap-

 $<sup>\</sup>underline{Location.asp?Region=SouthAmerica\&Country=Argentina\&Menu=SouthAmerica\&7CSA-Countries\%7CArgentina;} \\ \underline{http://www.agroenlinea.com.ar/home/ampliar.php?id=598}.$ 

- 125. The domestic crops which are consumed by the farmers and their families are interspersed with the tobacco crops in the same or immediately adjacent fields. Similarly, the livestock on these farms are present in fields where tobacco is grown.
- 126. Tabacos Norte is a "leaf supplier company" in Misiones, Argentina which is owned and wholly controlled by the Philip Morris Defendants and the Carolina Leaf Defendants. It was created by the Philip Morris Defendants and the Carolina Leaf Defendants in or about 1984.
- 127. Farmers cultivating tobacco in Misiones, Argentina, including the instant Plaintiffs, are contracted to a leaf supplier company like Tabacos Norte which sells them crop production supplies including herbicides and other pesticides on credit and contracts to buy their harvest.
- 128. Historically, the type of tobacco grown in Misiones was primarily "criollo misionero" which is native to the region and did not require extensive use of pesticides. The **Philip Morris** and **Carolina Leaf Defendants**, through Tabacos Norte, required that contract farmers grow a type of Burley tobacco, which was in demand for Philip Morris-brand cigarettes in the United States and around the world. Burley tobacco is cultivated with heavier pesticide application, which was unknown in the region until **Philip Morris** and **Carolina Leaf Defendants** introduced Burley tobacco and the accompanying pesticides to its contract farmers.
- 129. The leaf purchase contracts require farmers to conform with the growing specifications of Tabacos Norte or their crop will not be purchased. This means that farmers must buy the seed and agricultural chemicals required by the company and must apply the prescribed chemicals to their tobacco crops at the recommended intervals or lose the ability to sell their harvest and repay their debts to the leaf supplier company.

- 130. Tabacos Norte employs "agricultural technicians" who visit the contract farms to distribute crop supplies, including chemicals, and ensure the crop is being grown in compliance with Tabacos Norte crop specifications.
- 131. The **Philip Morris Defendants** and the **Carolina Leaf Defendants** directly develop the crop guidelines for the agricultural technicians to impose on the Tabacos Norte contract farmers.
- 132. The **Philip Morris Defendants** and the **Carolina Leaf Defendants** have periodically studied Tabacos Norte contract farmers to determine what specifications and implementation plans will result in the most desirable tobacco harvest.
- Defendants are explicitly aware that the contract farmers, including the instant Plaintiffs, reside, eat, sleep and raise their families within a few yards of where they cultivate tobacco and apply the prescribed chemicals.
- 134. The **Philip Morris Defendants** and the **Carolina Leaf Defendants** are also expressly aware that contract farmers, including the instant Plaintiffs, typically grow food for family consumption in the immediate area where they cultivate tobacco and apply the prescribed chemicals.
- 135. The **Philip Morris Defendants** have hosted many of the Tabacos Norte agricultural technicians and managers in Virginia in order to train them in crop control and cultivation techniques for implementation in Misiones, Argentina.
- 136. The **Philip Morris Defendants** have a right of first refusal to purchase leaves grown by contract farmers in Misiones and procured through Tabacos Norte.

137. The relationship between Tabacos Norte and the **Philip Morris Defendants** includes the express understanding that some leaves purchased from Misiones farmers will be imported to the United States for use.

### **PESTICIDES AND THEIR USE IN MISIONES**

- 138. At all relevant times, the cultivation of tobacco and other crops in Misiones by the parental Plaintiffs employs several forms of agricultural poisons, commonly referred to as "pesticides." Among these pesticides are herbicides which are used to kill weeds and other undesired plant life. Contained within these pesticides are hazardous chemicals, including both active ingredients and adjuvants, known to be reproductively toxic.
- 139. On information and belief, in the early 1980s, the **Monsanto Defendants** commenced heavily marketing Roundup, a glyphosate-based herbicide, to farmers in Argentina. Roundup is used to kill undesired plant life and to clear fields before and after the growing season. In particular, **Monsanto** has promoted "no-till farming," which requires the copious application of "Roundup" and other herbicides in place of plowing the fields.
- 140. At all relevant times, small family farmers in Misiones, Argentina, including the instant Plaintiffs, were advised by the **Monsanto Defendants** and **Philip Morris Defendants** to use glyphosate frequently and in quantities beyond what would be necessary for effective weed control.
- 141. "Roundup" as used herein refers to Roundup® products, Roundup™ products, or any other glyphosate-containing Roundup products manufactured, distributed, or licensed for use by MONSANTO (and its agents) in Argentina and to which the Plaintiffs were exposed.

- 142. Monsanto Defendants, the Philip Morris Defendants, and the Carolina Leaf Defendants promoted the use of Roundup and other herbicides to tobacco farmers in Misiones even though they were on direct and explicit notice that at all relevant times farmers in Misiones, including the instant Plaintiffs, lacked the necessary personal protective equipment and other safety knowledge and skills required to minimize harmful exposures to Roundup.
- Defendants, the Philip Morris Defendants, and the Carolina Leaf Defendants did not recommend protective measures to farmers and their families in Misiones. In fact, aforementioned Defendants actively recommended and/or required that contracted tobacco farmers, including the instant Plaintiffs, purchase excessive quantities of Roundup and other pesticides.
- 144. At all relevant times, Defendants were on direct and explicit notice that fruits, vegetables and farm animals designated for family consumption would be contaminated with pesticides including Roundup if contract farmers followed the Defendants' aggressive chemical application specifications for tobacco cultivation.
- 145. At all relevant times, Tabacos Norte agricultural technicians provided seeds for non-tobacco crops, such as fruits and vegetables for personal consumption, to the contracted tobacco farmers and recommended that the contract farmers use Roundup and other pesticides on these other crops as well.
- 146. At all relevant times, Defendants were on direct and explicit notice that water wells and streams meant for family use, including drinking, cooking, bathing, laundering, washing, and recreation, would be contaminated with pesticides including Roundup if contract

farmers followed the Defendants' aggressive chemical application specifications for tobacco cultivation.

- 147. The **Philip Morris** and **Carolina Leaf Defendants**, acting directly and through their agents, servants and employees, controlled and directed the use of Roundup and other pesticides in the cultivation of tobacco at all relevant times, both with respect to the chemicals used, the manner in which they were to be used, and the dosages used.
- 148. Upon information and belief the **Monsanto Defendants**, acting in concert with Tabacos Norte and the **Philip Morris** and **Carolina Leaf Defendants**, consulted and designed the manner in which the Roundup and other glyphosate-containing products were to be used by contract tobacco farmers in Misiones.
- 149. On information and belief, the Plaintiffs and other farmers in Misiones practice tobacco farming as instructed, using massive amounts of Roundup and other pesticides. On Misiones farms, and in the case of these Plaintiffs, multiple applications of Roundup are typically used before, during and after the tobacco growing season whether or not the farmers practice no-till farming.
- 150. Upon information and belief, at all relevant times, Roundup was the most abundantly used herbicide—consisting, at present, of at least 75% of all glyphosate-based herbicides used in Argentina. At earlier times Roundup comprised even greater percentages of the glyphosate-based herbicides used in Argentina.
- 151. The Parent Plaintiffs reported using Roundup and glyphosate-containing herbicides believed to be Roundup at all times relevant hereto.

### **EXPOSURE**

- 152. At all relevant times, Plaintiff tobacco farmers in Misiones lacked necessary personal protective equipment, safety knowledge, and safety skills to be able to use Roundup and other pesticides in a manner that did not cause harm to them or their unborn children.
- 153. At all relevant times, Defendants did not recommend, provide, or otherwise suggest adequate protective measures.
- 154. What is more, at all relevant times Defendants' application recommendations and instructions called for excessive use of Roundup and other pesticides and ensured that Plaintiff tobacco farmers and their families would be exposed to dangerous levels of said pesticides.
- 155. Plaintiff tobacco farmers in Misiones applied Roundup and other pesticides manually at all relevant times and were not protected by enclosed tractors and/or application equipment.
- 156. At all relevant times, Plaintiffs carried liquid pesticides in canisters on their backs. The farmers walked through the fields with the canisters on their backs and sprayed these pesticides by hand. Farmers were often accompanied by spouses who assisted in the application of pesticides and also would remove pesticide covered weeds and other unwanted growths from the fields.
- 157. At all relevant times, Plaintiff tobacco farmers were left to mix and prepare Roundup and other pesticides for application themselves, and were thus exposed by dispensing Roundup into individual canisters from larger containers and by mixing the ingredients. This practice often takes place in sheds or other confined spaces and spouses of

tobacco farmers assist in the dispensing and mixing operation. This was a significant source of inhalation and dermal exposure for the instant Plaintiffs.

- 158. Plaintiffs' tobacco farms are small family farms where the tobacco fields are located in close proximity to the family home. Accordingly, pesticides were stored in and near the home at all relevant times, which caused further inhalation and dermal exposure while farmers and their families were present in and near the home.
- 159. Plaintiff tobacco farmers often lacked the proper tools and containers for mixing and using pesticides and resorted to repurposing household objects to use in chemical preparation. Such contaminated household tools and containers were later used for other tasks on the farm and in the home, for example, as containers for water used for household purposes.
- 160. The Plaintiff tobacco farmers' lack of training and instruction on the safe disposal of unused Roundup and other pesticides caused further exposure. Leftover pesticides were discarded in locations where they leached into the water supply.
- 161. At all relevant times, the source of water for most of the Plaintiff tobacco farmers were streams and groundwater present on, adjacent to, or nearby Plaintiffs' farms. The fields on which tobacco and other crops were farmed by Plaintiffs were usually adjacent to or nearby streams and wells.
- 162. Runoff from these fields, especially during and after periods of heavy rain, contaminates the surface and groundwater sources used by Plaintiff tobacco farmers and their families with Roundup and other pesticides.
- 163. The streams and other contaminated surface water bodies are used by Plaintiffs for drinking water, cooking, laundering clothing, bathing, irrigation, and recreation, which resulted in additional exposure of Plaintiffs to pesticides.

- 164. At all relevant times, Plaintiff tobacco farmers in Misiones did not have or use gloves or other protective clothing. Accordingly, liquid pesticides dripped on to Plaintiffs' hands and bodies and were absorbed through the skin.
- 165. At all relevant times, Plaintiff tobacco farmers did not have or use masks or respirators. The vapors, mist, and aerosols from liquid pesticides were inhaled by farmers and their families.
- 166. Upon information and belief these pesticides also became present in the drinking water consumed by parental Plaintiffs and in the food that Plaintiffs ate.
- 167. In addition, the parental Plaintiffs were exposed to pesticides while otherwise working in or being present in the fields where these chemicals were present, or in handling crops, plants or weeds to which these chemicals had been applied. Exposures also occurred as a consequence of leaks or spills of pesticides.
- 168. The injured Plaintiffs were exposed to Roundup and other pesticides in utero and/or by virtue of parental exposures causing reproductive damage to parental germ cells and/or sperm or ova. In addition the injured Plaintiffs continued to be exposed to these chemicals after birth in the same manner in which the parental Plaintiffs were environmentally exposed.
- 169. Roundup and other pesticides are reproductive toxins capable of producing genetic, teratogenic and/or developmental injury to humans. Additionally, Roundup contains chemical ingredients which are individually reproductive toxins capable of producing genetic, teratogenic, and/or developmental injury to humans. These toxic chemical ingredients include so-called "inert" ingredients, also referred to as adjuvants.

- 170. Exposure to Roundup and other pesticides produces additive or synergistic effects so that the reproductive harm inflicted on the injured Plaintiffs by multiple chemical exposures is greater than the harm inflicted by any one chemical ingredient, and is often greater than the sum of the harms inflicted by each of the chemicals separately.
- 171. Regardless, the harms inflicted by Roundup, were, by themselves sufficient to cause the injuries suffered by the injured Plaintiffs.
- 172. At all relevant times, it was well understood by all Defendants that a developing fetus is considerably more fragile and susceptible to toxic injury than adult human beings, and that levels of exposure which might not inflict harm on adults cause severe damage and birth defects in exposed fetuses.
- 173. It was also well-known by all Defendants that tobacco farmers in Misiones, including the parental Plaintiffs and their offspring, would be exposed to Roundup and other pesticides on multiple occasions in the manner described above.

### MANUFACTURE AND DISTRIBUTION OF GLYPHOSATE IN ARGENTINA: THE MONSANTO DEFENDANTS

174. **The Monsanto Defendants** researched, developed, manufactured, marketed and supplied Roundup and other pesticides containing the herbicide glyphosate to Plaintiffs and Tabacos Norte at all relevant times and are otherwise liable to Plaintiffs for acts and omissions, as alleged herein.<sup>22</sup> MONSANTO controlled and directed MONSANTO

http://www.monsanto.com/products/Documents/glyphosate-background-materials/back\_history.pdf;
http://www.monsanto.com.ar/nuestros\_productos/informacion\_tecnica\_seguridad/otros\_temas/resistencia\_malezas.aspx

ARGENTINA's production and sale of Roundup and other pesticides containing the herbicide glyphosate to Plaintiffs and Tabacos Norte.<sup>23</sup>

### **DEFENDANTS' MISCONDUCT**

### A. THE MONSANTO DEFENDANTS

- 175. MONSANTO is the world's leading producer of glyphosate, an herbicide that it developed and first introduced to the market in 1976.
- 176. At all relevant times, MONSANTO has marketed glyphosate as posing little or no risk to human or environmental health when in fact Defendant knew or had reason to know that aforementioned herbicide is a reproductive toxin, teratogenic, genotoxic and otherwise harmful.
- 177. MONSANTO is responsible for nearly 80% of all glyphosate worldwide and at least 75% of the glyphosate currently being applied in Argentina. At the earliest relevant times the Monsanto Defendants were responsible for all or virtually all of the glyphosate sold to be applied in Misiones.
- 178. Roundup™ is MONSANTO's brand name for its glyphosate herbicide. Roundup™ contains glyphosate and a "trade secret" blend of supposedly "inert ingredients." "Roundup" as used herein refers to Roundup® products, Roundup™ products, or any other glyphosate-containing Roundup products manufactured, distributed, or licensed for use by Monsanto in Argentina and to which the Plaintiffs were exposed.
- 179. The commercial formulation of glyphosate and so called "inert ingredients" in Roundup have been shown to be even more reproductively toxic to humans and wildlife than glyphosate alone.

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<sup>&</sup>lt;sup>23</sup> http://www.secinfo.com/dsvrt.55Zm.1.htm

- 180. The "inert ingredients" in Roundup include, but are not limited to, the surfactant polythoylated tallow amine (POEA) which heightens the herbicide's potency by increasing its penetration into plant and animal cells.
  - 181. POEA is not actually "inert."
- 182. Industry and independent studies dating back to 1980 or earlier show that glyphosate causes birth defects, and skeletal malformations in particular.
- 183. Beginning in the early 1980s, the **Monsanto Defendants** commenced heavily marketing Roundup to owners of small family farms in Misiones, Argentina. Defendants encouraged families to apply chemicals liberally within a few yards their homes.
- 184. The farmers, mostly tobacco producers, were advised by the **Monsanto Defendants** to use glyphosate frequently and in quantities beyond what would be necessary for effective weed control. Defendants did this purely to increase profit.
- 185. Today more than 200 million liters of glyphosate herbicide are sprayed on Argentine crops every year. Comparable quantities were used in earlier relevant times.
- 186. At all relevant times the **Monsanto Defendants** improperly designed and manufactured Roundup.
- 187. At all relevant times, **Monsanto Defendants** failed and refused to warn or advise Plaintiffs and/or Plaintiffs' parents of the dangerous characteristics of glyphosate, and Roundup in particular.
- 188. At all relevant times, **Monsanto Defendants** failed to investigate, study, determine, impose or comply with reasonable standards and regulations to protect and promote the safety or to minimize the dangers to those using or who would foreseeably use or be harmed by the aforesaid pesticides, including the injured Plaintiffs and the injured Plaintiffs' parents.

- 189. At all relevant times, **Monsanto Defendants** failed to fully and properly test and study the aforesaid pesticides to learn of the hazards associated with their use.
- 190. The **Monsanto Defendants** made express and implied warranties and representations, incorrectly and untruthfully, that glyphosate, and Roundup products in particular, were safe and suitable for use.
- 191. At all relevant times, the **Monsanto Defendants** affirmatively misled plaintiffs and their customers by funding, publishing, and promoting scientific studies stating that glyphosate causes no adverse health effects in humans when they knew or should have known that their commercial formulation Roundup was, and is, far more toxic than glyphosate alone and is known to cause adverse health effects in humans and their unborn children.
- Monsanto Defendants willfully and recklessly ignored knowledge, in existence at all relevant times, of the health hazards of the aforementioned Roundup and have thereby exhibited reckless disregard for the health and well-being of the injured Plaintiffs and their parents, and numerous others who use their products.

### B. THE PHILIP MORRIS AND CAROLINA LEAF DEFENDANTS

- 193. The **Philip Morris Defendants** and the **Carolina Leaf Defendants** are sophisticated, multi-national corporations and leading producers of tobacco products worldwide.<sup>24</sup>
- 194. Tabacos Norte, under the direction of the **Philip Morris** and the **Carolina Leaf Defendants**, controlled the method and means by which the tobacco was grown and which

<sup>&</sup>lt;sup>24</sup> For example, PHILIP MORRIS INTERNATIONAL, INC. has sales in approximately 180 countries and held an estimated 16.0 percent share of the international cigarette market outside of the U.S. in 2010.

pesticides were applied to crops grown by parental Plaintiffs for use in products manufactured and sold by the **Philip Morris Defendants**.

- 195. These pesticides included Roundup® products, Roundup™ products, or any other glyphosate-containing Roundup products manufactured, distributed, or licensed for use by Monsanto in Argentina and to which the Plaintiffs were exposed.
- 196. At all relevant times, the **Philip Morris** and the **Carolina Leaf Defendants** failed and refused to warn or advise injured and parental Plaintiffs of the dangerous characteristics of glyphosate and other pesticides.
- 197. At all relevant times, the **Philip Morris** and the **Carolina Leaf Defendants** failed to investigate, study, determine, impose or comply with reasonable standards and regulations to protect and promote the safety or to minimize the dangers to those using or who would foreseeably use or be harmed by the aforesaid pesticides, including the injured and parental Plaintiffs.
- 198. At all relevant times, the **Philip Morris** and the **Carolina Leaf Defendants** failed to fully and properly test and study the aforesaid pesticides to learn of the hazards associated with their use.
- 199. Motivated by a desire for unwarranted economic gain and profit, the **Philip Morris** and the **Carolina Leaf Defendants** willfully and recklessly ignored knowledge, in existence at all relevant times, of the health hazards of the aforementioned pesticides and have thereby exhibited reckless disregard for the health and well-being of the injured and parental Plaintiffs.
- 200. At all relevant times, some or all parental Plaintiffs had tobacco cultivation contracts with Tabacos Norte.

- 201. Tabacos Norte controlled and directed all material aspects of the production of tobacco by parental Plaintiffs for purchase by Tabacos Norte, including providing the seeds, providing and/or directing the Plaintiffs' use of and exposure to Roundup and other pesticides used in the production of tobacco for purchase by Tabacos Norte which caused Plaintiffs' injuries.
- 202. The injuries of Plaintiffs are a direct and proximate result of the negligence of Tabacos Norte, under the direction and control of the **Philip Morris** and the **Carolina Leaf Defendants**, in that said entity created hazardous and deadly conditions to which Plaintiffs were exposed and which caused Plaintiffs to be exposed to a large amount of pesticides.
- 203. Tabacos Norte, under the direction and control of the **Philip Morris** and the **Carolina Leaf Defendants**, was negligent in one, some or all of the following respects, among others, same being the proximate cause of Plaintiffs' injuries:
  - (a) in negligently designing and implementing tobacco growing guidelines for Misiones, Argentina, which called for excessive pesticide use by farmers, including parent Plaintiffs, who were untrained and ill-equipped to protect themselves or their families from toxic exposure;
  - (b) in failing to timely and adequately warn parent Plaintiffs of the dangerous characteristics
  - and serious health hazards associated with exposure to Roundup and other pesticides;
  - (c) in failing to provide parental Plaintiffs with information as to what would be reasonably safe and sufficient wearing apparel and proper protective equipment and appliances, if in truth there were any, to protect infant Plaintiffs from being harmed and disabled by exposure to pesticides;

- (d) in failing to place timely and adequate warnings on the containers of said pesticides to warn of the dangers to health from coming into contact with these agricultural poisons;
- (e) in failing to take reasonable precautions or exercise reasonable care to publish, adopt and enforce a safety plan or safe method of handling and installing pesticides, or utilizing the machinery requiring or calling for the use of pesticides in a safe manner; (e) in failing to develop and utilize a substitute material or design to eliminate pesticides and by requiring parental Plaintiffs to use these poisons, despite the pre-existing safer modes of tobacco production;
- (f) in failing to properly design and manufacture pesticides for safe use under conditions of use that were reasonably anticipated;
- (g) in failing to properly test said pesticides before they were released for Plaintiffs' use; and,
- (h) in requiring parental Plaintiffs to maintain, store and mix their own pesticides, without warning them of the dangers therein.

### **DEFENDANTS ACTING IN CONCERT**

- 204. At all relevant times, Defendant UNIVERSAL CORPORATION did collude and collaborate with the **Philip Morris** and **Carolina Leaf Defendants** regarding the control and management of Tabacos Norte contract farmers, as part of their common scheme to cultivate and sell Misiones tobacco for use in Philip Morris cigarettes.
- 205. Defendant UNIVERSAL CORPORATION, at all relevant times, gave substantial assistance to the **Philip Morris** and **Carolina Leaf Defendants** in their control and management of tobacco farming by Tabacos Norte contract farmers, and knew or should have

known that the **Philip Morris** and **Carolina Leaf Defendants** were negligent as described in paragraph 138.

### **TIMELINESS**

- 206. Each of the Plaintiffs were unaware of either the misconduct of Defendants or the causal relationship between that misconduct and the birth defects suffered by the infant Plaintiffs except within two years of the date on which this action was commenced. Accordingly these claims are timely under the law of both Argentina and Delaware.
- 207. Under Argentine law the applicable statute of limitations period is two years (Article 4037 of the Civil Code) as it is in Delaware. However, in Argentina it is also true that actions brought on behalf of minors are tolled for infancy when the minor lacks representation (Article 3966 of the Civil Code).
  - 208. The age of majority in Argentina is 18 (Argentine Law 26.579).
- 209. In Argentina the accrual of a personal injury claim will be tolled by ignorance of the necessary facts to bring a claim, which means that where a plaintiff is unable to determine the misconduct or cause of his or her injury, the limitations period does not begin to run until such time as plaintiff had a "reasonable possibility of knowledge" of the cause of her injury and who is responsible.
  - 210. Plaintiff's knowledge of her claim must be real and effective.
- 211. In all events, each of the infant and parental Plaintiffs are individuals of limited education, residing in a rural and relatively primitive section of Argentina, who lacked the ability to comprehend and access to obtain sophisticated medical or scientific information respecting the cause of their or their children's birth defects. Similarly, they were not in a

position to obtain meaningful information about the toxicological properties of the chemicals to which they were exposed.

- 212. In addition, the parental Plaintiffs were explicitly caused to believe that the products to which they were exposed were not reproductive toxins, by virtue of the following conduct and statements made by Defendants:
  - a) Philip Morris and Carolina Leaf Defendants, through Tabacos Norte's agricultural technicians, explicitly assured Plaintiff tobacco farmers that Roundup and other pesticides sold by the leaf supplier company were safe and did not pose risks, reproductive or otherwise, when used in the manner that Tabacos Norte recommends;
  - b) Philip Morris and Carolina Leaf Defendants, through Tabacos Norte, produce annual information sheets on pesticides for the contract farmers, many of whom cannot read. The sheet for glyphosate, in its current form, states that glyphosate "normally does not present risks," does not provide any information about chronic exposure to glyphosate and does not mention reproductive toxicity or teratogenicity; and,
  - c) In Argentina, MONSANTO and its agents have loudly and publicly disclaimed that Roundup and other glyphosate products can cause birth defects. Stating that "Glyphosate does not adversely affect reproduction or development" and "glyphosate is not a developmental or reproductive toxicant."
- 213. The above described statements were expressly made, and the abovedescribed omissions were either deliberately or negligently perpetrated by Defendants for the

express purpose of inducing the reliance of the parental Plaintiffs so that they would use the products at issue, and thereby promote the profit seeking activities of Defendants. These false and/or misleading statements were relied upon by the parental Plaintiffs and proximately resulted in harm to their offspring.

- 214. Plaintiffs did not learn of the false and misleading nature of these statements except within 2 years of the commencement of this action.
- 215. Nor could Plaintiffs by any reasonable inquiry under the circumstances have been on notice of either the misconduct or cause of their injuries at any earlier date than within two years of the commencement of this suit.

### PROXIMATE CAUSATION

- 216. Conduct described above was a substantial factor in bringing about injuries and damages suffered by the Plaintiffs.
- 217. Conduct described above was a competent and producing cause without which these children would have been born unharmed.
- 218. Defendants' misconduct in managing the use of agricultural chemicals in Misiones was a proximate cause of, and a substantial causative factor in, Plaintiffs' aforesaid injuries.

#### **DAMAGES**

219. As a consequence of the foregoing misconduct the injured Plaintiffs JONATAN EMANUEL TERESCHUK, MÓNICA GABRIELA REIS, GLORIA MABEL PADILLA, VIVIANA LORENA CORREA, WILLIAM EMANUEL LEMOS DA SILVA, YISELA SOLEDAD DOS SANTOS, MIRTA MILENA VERGARA, MELIZA DANIELA DA SILVA, HORACIO NICOLAS DA SILVA, ANA ANGÉLICA PRATES, ANA LEONORA

PRATES, KARINA YANNET GORGENS, MICAELA ANGELES FERREYRA, CAMILA MILAGROS GENSKI, ADRIANA ANGÉLICA CORREA, MATIAS JOAQUIN SILVEIRA, TALIA BELEN SOROKA, FABIÁN ALEXANDER PIRIS, AXEL MAURICIO NACKE, MAURO SANTIAGO JOAQUIN MEGGI, ALAN EZEQUIEL RIOS, CARLOS RAMÓN SANCHEZ, MAICOL JOEL WASINGER, CARINA FABIANA SCHULZ, GLADYS BEATRIZ PRESTES, RAFAEL LEMES DA SILVA, YANINA CLARISA CAMARGO, NICOLA RODRIGO MACIEL, GERMAN ENRIQUE YUNG, MACARENA BELÉN BORGES DE LIMA, BRENDA YAMILA DA SILVA, VERÓNICA ANDREA DA SILVA, HÉCTOR FABIÁN PIÑEIRO, MARCIA GABRIELA LUCIUK, GIANELA SORAYA GONZALEZ, SANDRO JOEL DUBLES, CLAUDIO FABIÁN MARQUEZ, CRISTIAN FABIÁN PETROSKI, RAFAEL GARCIA DA ROSA, DANIEL GARCIA DA ROSA, and MATÍAS AGUSTÍN GARCIA DA ROSA each sustained severe and permanent birth defects, and have suffered and with reasonable certainty will suffer each of the following injuries or damages for the remainder of their lives:

- (a) severe and constant conscious physical pain and suffering;
- (b) severe and continuing mental anguish, psychological and emotional injury;
- (c) physical disability and disfigurement;
- (d) loss of the enjoyment of life's pleasures;
- (e) inability to participate in normal activities;
- (f) medical and healthcare expenses;
- (g) household and home care expenses;
- (h) rehabilitation expenses;

- (i) loss of income;
- (j) loss of the ability to have a normal family life or married life;
- (k) loss of the ability to have children;
- (l) impaired cognitive and mental functions;
- (m) moral damages;
- increased risk of future disability as a consequence of toxic exposure;
- (o) social isolation; and
- (p) such other damages as may be allowed by law.

220. Plaintiffs PABLA CHALAÑUK, ALBERTO Parental CESAR TERESCHUK, LUISA REIS, FLORIPA RODRIGUEZ MULLER, JUVENAL PADILLA, ELSA ALVEZ, MANUEL CORREA, MYRIAM GLADYS NUÑEZ, VILMAR LEMOS DA SILVA, ALEJANDRO DOMINGO DOS SANTOS, IRMA ELENA VERGARA, CARLOS RIVELLI, ISABEL DA ROSA, JUAN CARLOS DA SILVA, RAMONA ESTER GALLARDO, JUAN CARLOS DA SILVA, CIRO PRATES, CLAUDIA MIRNA LANGE, RAÚL ALEJO GORGENS, CELIA SOSA, CARMEN BUBANS, ARNALDO ALBERTO GENSKI, MARIA ROSA DOS REIS, ELISEO CORREA, CARMEN RAMONA COLMER, ONIRIO SILVEIRA MARTINS, ANITA NAKE, JUAN CARLOS SOROKA, CÁNDIDA AURORA RODRIGUEZ, FABIÁN ROBERTO PIRIS, SUSANA KUCZKA, JORGE NACKE, NÉLIDA BEATRIZ ALBEA, JERRY RUBÉN MEGGI, EMA BERTA RIOS, MARILINA DEL CARMEN MONTÓRFANO, SILVIA PATRICIA DEFLO, FERNANDO WASINGER, GRACIELA MERELES, ELVINO SCHULZ, INES NELY CANDIDA, ALFONSO PRESTES, OLINDA DA ROSA, MARIO LEMES DA SILVA, LUCIA CELESTINA FERREIRA, DORCI CAMARGO, LILIANA NUÑEZ, CLAUDIO MACIEL, LUIS ADELAG YUNG, LUISA ALVES, NÉLIDA FABIALDA, IGNACIO BORGES DE LIMA, MIRTA ELENA VERGARA, ROQUE DA SILVA, MARIA ELENA VARGAS, ROGELIO DANIEL DA SILVA, JUAN RAMÓN PIÑEIRO, MIRTA MULIARCH, TERESA ELENA JANSAT, GREGORIO LUCIUK, VIVIANA SOZA, RAMÓN MARCELO GONZALEZ, LUISA FERNÁNDEZ, HUGO ENRIQUE DUBLES, CESARINA ANDRADE, ROQUE MARQUEZ, ANA FRIEDERICH, ISIDORO PETROSKI, GLADYS MARIELA GIMENEZ, SERGIO RUBÉN GARCIA DA ROSA have suffered the following injuries or damages as a consequence of the above-described misconduct:

- (a) grief as a consequence of their child's disabilities;
- (b) mental anguish and upset;
- (c) loss of consortium;
- (d) household expenses;
- (e) outrage;
- (f) fear respecting their future reproductive choices;
- (g) lost income;
- (h) mental anguish respecting their own personal future;
- (i) moral damages;
- (j) other economic damages;and such other damages as may be allowed by law.
- 221. In addition, Plaintiffs claim to entitlement to punitive and exemplary damages as permitted under Consumer Law 24240, or otherwise.

### **NEGLIGENCE AS AGAINST ALL DEFENDANTS**

- 222. The allegations in paragraphs One (1) through Two hundred twenty-one (221) are realleged and incorporated by reference within this Count.
- 223. Defendants willfully, recklessly and negligently failed and refused to warn or advise the plaintiffs and others of the dangers and hazards of the aforesaid pesticides, and the dangers posed to the health and welfare of those coming in contact with or using the aforesaid pesticides.
- 224. Defendants willfully, recklessly and negligently failed to provide needed, accurate and adequate warnings and information of the health hazards and dangers of the aforesaid pesticides to the plaintiffs and those who would reasonably and foreseeably come into contact with, use or be harmed by them.
- 225. Defendants willfully, recklessly and negligently failed to study, investigate, ascertain, impose or comply with reasonable standards and regulations to protect and promote the health and safety of or minimize the dangers to those using or coming into contact with the aforesaid pesticides.
- 226. Defendants willfully, recklessly and negligently failed to fully and properly test and study the aforesaid pesticides to fully learn of the hazards associated with those products and their use.
- 227. Defendants willfully, recklessly and negligently failed to develop, make available, provide, or promote pesticides which were free of defect, and/or failed to design the aforesaid equipment so as to prohibit or minimize their hazards.

- 228. Defendants willfully, recklessly and negligently failed to provide instructions of potentially safer methods of handling the aforesaid pesticides to users or others foreseeably coming with or using it.
  - 229. Defendants negligently failed to provide a safe place to work.
  - 230. Defendants were otherwise negligent.
- 231. As a proximate consequence of the acts, omissions, wilfulness, recklessness and negligence of defendants, each plaintiff sustained the injuries and damages set forth above, and the respective defendants against whom the aforesaid claims are made by the plaintiffs as set forth herein, are accordingly liable for negligence.
- 232. As a proximate result, each plaintiff has been damaged as set forth above and is entitled to compensatory damages.

#### STRICT LIABILITY AS AGAINST MONSANTO DEFENDANTS

- 233. The allegations from paragraphs One (1) through Two hundred thirty-two (232) are realleged and incorporated by reference within this Count.
- 234. As a direct and proximate result of the defective, unsafe and unreasonably dangerous condition of the **Monsanto Defendants**' chemicals and substances, each plaintiff herein sustained all of the injuries as set forth above.
- 235. As a proximate result of the foregoing, each Plaintiff has been damaged, and the respective defendants as set forth above, are strictly liable to each Plaintiff who has made claims against them as set forth herein.

### BREACH OF WARRANTY AS AGAINST MONSANTO DEFENDANTS

236. The allegations from paragraphs One (1) through Two hundred thirty-five (235) are realleged and incorporated by reference within this Count.

- 237. As a direct and proximate result of the breach of express and implied warranties made by the **Monsanto Defendants** with respect to their pesticides herein, each Plaintiff sustained the injuries and damages as set forth above.
- 238. As a proximate result of the foregoing, each plaintiff, as set forth above, has been damaged, and the **Monsanto Defendants** are strictly liable for breach of warranty to each plaintiff.

## ABNORMALLY DANGEROUS AND ULTRA HAZARDOUS ACTIVITY AS AGAINST ALL DEFENDANTS

- 239. The allegations from paragraphs One (1) through Two hundred thirty-eight (238) are realleged and incorporated by reference within this Count.
- 240. Each Defendant knew or should have known that their aforesaid conduct exposed Plaintiffs to an abnormally dangerous and ultrahazardous activity.
- 241. As a direct and proximate result of the acts, omissions, wilfulness, recklessness and negligence of Defendants, each Plaintiff sustained the injuries and damages set forth above, and the respective Defendants against whom the aforesaid claims are made by the Plaintiffs as set forth herein are accordingly liable for abnormally dangerous and ultra-hazardous activity.
- 242. As a proximate result, each Plaintiff, as set forth above, has been damaged, and the Defendants are strictly liable to each Plaintiff who has made claims against them as set forth herein.

### AIDING AND ABETTING AS AGAINST THE PHILIP MORRIS DEFENDANTS

243. The allegations of paragraphs One (1) through Two hundred forty-two (242) are realleged and incorporated by reference within this Count.

- 244. Philip Morris Defendants, by and through their employees, aided and abetted the actions of Tobacos Norte and Massalin Particulares in causing the toxic exposures which resulted in Plaintiffs' injuries and damages.
- 245. As a direct and proximate result of the conduct of Defendants' employees in aiding and abetting, Tobacos Norte and Massalin Particulares, each of the Plaintiffs sustained the injuries and damages set forth above.

### WILLFUL AND WANTON MISCONDUCT AS AGAINST ALL DEFENDANTS

- 246. The allegations of paragraphs One (1) through Two hundred forty-five (245) are realleged and incorporated by reference within this Count.
- 247. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, caused Plaintiffs to be exposed to pesticides which were defective, unsafe and/or unreasonably dangerous.
- 248. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, failed to utilize proper measures to prevent Plaintiffs, from being exposed to harmful pesticides.
- 249. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, failed and refused to warn or advise Plaintiffs of the dangerous characteristics of the pesticides and of the health threats or adverse consequences to those who might use or be exposed to these harmful chemicals.
- 250. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, failed to study, investigate, determine, impose or comply with reasonable standards and regulations to protect and promote the health and safety of, or to minimize the

dangers to those using, or who would foreseeably use or be harmed by the aforesaid pesticides, including parental Plaintiffs and their offspring.

- 251. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, failed to fully and properly test and study the aforesaid pesticides to learn of the hazards associated with their use.
- 252. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, made express and implied warranties and representations, incorrectly and untruthfully, that the pesticides were safe and suitable for use.
- 253. Defendants intentionally, willfully or with a reckless disregard for the safety of Plaintiffs, ignored and concealed from the plaintiffs knowledge, in existence at all relevant times, of the health hazards of the aforementioned pesticides.
- 254. Defendants' willful, wanton, and intentional misconduct evinces a total, conscious and/or reckless disregard for the life and well-being of Plaintiffs as well as for the health, well-being and rights of others who used or otherwise came into contact with the aforesaid pesticides.
- 255. As a direct and proximate result of the willful, wanton and intentional misconduct of Defendants, each Plaintiff sustained the injuries and damages set forth above.
- 256. In addition to compensatory damages, an award of punitive damages is appropriate and necessary in order to punish Defendants for their willful, wanton, intentional and/or reckless misconduct and to deter Defendants and others similarly situated from engaging in like misconduct in the future.

# CAUSE OF ACTION PURSUANT TO ARTICLE 1109 OF THE ARGENTINE CIVIL CODE

- 257. The allegations set forth in paragraphs One (1) through Two hundred fifty-six (256) of this Complaint are repeated and realleged and incorporated by reference within this cause of action as if repeated in full herein.
- 258. The aforesaid misconduct constitutes a violation of the provisions of Article 1109 from the Argentine Civil Code.

# CAUSE OF ACTION PURSUANT TO ARTICLE 1113 OF THE ARGENTINE CIVIL CODE

- 259. The allegations set forth in paragraphs One (1) through Two hundred fifty-eight (258) of this Complaint are repeated and realleged and incorporated by reference within this cause of action as if repeated in full herein.
- 260. The aforesaid misconduct constitutes a violation of the provisions of Article 1113 from the Argentine Civil Code.

# CAUSE OF ACTION PURSUANT TO ARGENTINE CONSUMER PROTECTION LAW 24240

- 261. The allegations set forth in paragraphs One (1) through Two hundred sixty (260) of this Complaint are repeated and realleged and incorporated by reference within this cause of action as if repeated in full herein.
- 262. The aforesaid misconduct constitutes a violation of the provisions of Argentine Consumer Protection Law 24240.

### CAUSE OF ACTION PURSUANT TO ARTICLE 54 OF ARGENTINE LAW NO. 19550 ON COMMERICIAL COMPANIES

263. The allegations set forth in paragraphs One (1) through Two hundred sixty-two (262) of this Complaint are repeated and realleged and incorporated by reference within this cause of action as if repeated in full herein.

264. The aforesaid misconduct constitutes a violation of the provisions of Argentine Article 54 of Law No. 19550 on Commercial Companies, as amended by Law No. 22903.

WHEREFORE, Plaintiffs pray this Court to enter judgment against Defendants and to award: compensatory damages in an amount to be proved at trial; punitive damages in an amount sufficient to punish Defendants for their misconduct and to deter similarly situated parties from committing like acts of misconduct in the future; and for such other and further relief that this Court deems appropriate.

Dated: April 4, 2012

### OF COUNSEL

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